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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,491	07/31/2003	David A. Skidmore	190514-1020	4397
24504	7590	09/09/2005		
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948				EXAMINER DANIELS, MATTHEW J
				ART UNIT 1732 PAPER NUMBER

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/632,491	SKIDMORE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Matthew J. Daniels	1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 July 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date: _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/18/03</u> .  | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### *Specification*

1. The specification is objected to because of the following informalities: The attorney docket number listed in the first paragraph of the specification identifying another copending application is objected to because it does not distinctly identify the application to the public. It is noted that the copending application is been incorporated by reference in the instant specification, and it should be incorporated by reference according to the U.S. case number assigned to that application. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 2, 4, 5, 7, 8, 22, 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Battle (USPN 5358214) in view of Cross (USPN 1494953). **As to Claim 1**, Battle teaches a method for forming a masonry unit (3:52-55), the method comprising the steps of joining a pallet to a bottom surface of a mold (2:12-14 and Fig. 1), inserting a filler plug into the side of the mold between a partition plate and a pallet (Fig. 5, Item 16 and 22, and 3:25-47), dispensing mix into the mold (3:25-47). Battle is silent to the “shoe,” but such shoes, or tampers, are well

known in the art. Cross teaches a tamper (Fig. 1, Item 37), and it would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Cross into that of Battle in order to provide a force to the mixture to help fill crevices in the mold, and to create a more uniform part. **As to Claim 2**, removal of the plug would have been inherent in the combined method in order to use the masonry units created by the process. **As to Claims 4 and 5**, Battle teaches a filler plug having a bottom bevel (Fig. 3), and which would also inherently have created a mortar buffer surface because the recesses could have inherently accepted mortar. **As to Claims 7 and 8**, Battle's indents (created by Item 12 in Fig. 5) would have inherently produced the opposing side gussets when more than one block was molded. These gussets would have obviously or inherently formed an angle of inclination between the claimed surfaces. **As to Claim 22**, Battle teaches (Figs. 1 and 5) a plurality of filler plugs. **As to Claim 23**, Battle's plug has a beveled bottom corner portion and a "T" portion (Fig. 5, Items 16 and 22).

3. **Claims 3 and 6** are rejected under 35 U.S.C. 103(a) as being unpatentable over Battle (USPN 5358214) in view of Cross (USPN 1494953), and further in view of Rasmussen (USPN 2475435). Battle and Cross teach the subject matter of Claim 1. See the rejection above under 35 USC 103(a). **As to Claim 3**, it is unclear whether Cross teaches a pallet that is lowered (See Item 25 in Fig. 2). However, Rasmussen teaches a method in which the pallet (Fig. 3, Item 20) would have necessarily have been lowered to remove the block. It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Rasmussen into that of Battle and Cross in order to provide a simple and inexpensive

apparatus that could be operated in remote areas without electricity. **As to Claim 6**, Rasmussen's pallet is raised to join with the mold (Fig. 3, Item 20)

4. **Claims 9-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Battle (USPN 5358214) in view of Cross (USPN 1494953), and further in view of Knipper (USPN 3509250), Rasmussen (USPN 2475435), and Wittke (USPN 2532049). Battle and Cross teach the subject matter of Claim 8. See the rejection above under 35 USC 103(a). **As to Claims 9-21**, Battle and Cross appear to be silent to the exact angles and sizes of the claimed filler plugs, shoes, or gussets. These appear to be apparatus limitations which do not materially affect the claimed method, and thus do not appear to patentably distinguish the claimed method from the prior art. However, it would have also been obvious to vary the size and shape of various gussets, bevels, or shoes in order to create a particular appearance or provide for better bonding with surrounding masonry units. These aspects are taught by Knipper, Rasmussen, and Wittke. In particular, Knipper teaches a plug (Fig. 3, Items 56, 66) in which inserts having a desired configuration can be put into the mold, and members of different configurations can be cast merely by changing the inserts without changing the basic structure of the mold (1:50-72). Knipper additionally teaches that the molding method and apparatus are readily adjustable to the size of the desired molded members (2:5-10). Rasmussen additionally teaches channels having a dovetail shape, or concave (Fig. 4, Items 33 and 32, respectively). Wittke teaches "shoes" (Applicant's terminology) having angled surfaces (Figs. 2 and 4, Item 41). It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to incorporate the methods of Knipper, Rasmussen, and Wittke into that of Battle and Cross in order to provide

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adjustable size and configuration bevels, as well as aesthetically pleasing and structurally reinforcing channels, bevels, or recesses. In the combined method, it would have been prima facie obvious to vary the various configurations, sizes, or angles to arrive at the claimed invention.

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Koyama (USPN 3662438) and Heyden (USPN 2696729) are also cited as providing additional bevel and channel shapes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Thursday, 7:30 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJD 9/1/05

  
MJD

MICHAEL P. COLAIANNI  
SUPERVISORY PATENT EXAMINER